

REMARKS

Claims 1-30 are pending in this application. By this Amendment, claims 14, 15 and 23-25 are amended and claims 26-30 are added. No new matter is added.

I. Restriction and Election of Species Requirement

In reply to the November 25, 2011 Notice of Non-Responsive Amendment, Applicants provisionally elect Group II, claims 13, 14 and 24, and Species 1, Figure 1 with traverse. Claims 13, 14, 24 and 27-30 read on the elected species. Applicants also submit that new claims 26-30 should be included in Group II.

National stage applications filed under 35 U.S.C. §371 are subject to unity of invention practice as set forth in PCT Rule 13, and are not subject to U.S. restriction practice. *See* MPEP §1893.03(d). PCT Rule 13.1 provides that an "international application shall relate to one invention only or to a group of inventions so linked as to form a single general inventive concept." PCT Rule 13.2 states:

Where a group of inventions is claimed in one and the same international application, the requirement of unity of invention referred to in Rule 13.1 shall be fulfilled only when there is a technical relationship among those inventions involving one or more of the same or corresponding special technical features. The expression "special technical features" shall mean those technical features that define a contribution which each of the claimed invention, considered as a whole, makes over the prior art.

A lack of unity of invention may be apparent "*a priori*," that is, before considering the claims in relation to any prior art, or may only become apparent "*a posteriori*," that is, after taking the prior art into consideration. *See* MPEP §1850(II), quoting *International Search and Preliminary Examination Guidelines* ("ISPE") 10.03. Lack of *a priori* unity of invention only exists if there is no subject matter common to all claims. *Id.* If *a priori* unity of invention exists between the claims, or, in other words, if there is subject matter common to all the claims, a lack of unity of invention may only be established *a posteriori* by showing that the common subject matter does not define a contribution over the prior art. *Id.*

The Restriction Requirement has failed to show a lack of *a priori* or *a posteriori* unity of invention in restricting between Groups I and II. Instead, the Restriction Requirement alleges that Group I and Group II are distinct according to U.S. restriction practice, relying on MPEP §806.05(j). Accordingly, the Restriction Requirement is improper.

Further, Groups I and II have unity of invention under 37 CFR 1.475(b)(4). 37 CFR 1.475(b)(4) states that an international or a national stage application containing claims to different categories of invention will be considered to have unity of invention if the claims are drawn only to a process and an apparatus or means specifically designed for carrying out the said process. Applicants submit that Group I is an apparatus specifically designed for carrying out the process in Group II and thus is considered as having unity of invention. Accordingly, the Restriction Requirement should be withdrawn.

With respect to the Election Requirement, the indication that each of Figs. 3A-3B, 4A-4B, 5A-5B, and 6A-6B are separate species is incorrect as each of Fig. 3B, Fig. 4B, Fig. 5B, and Fig. 6B is a top view of the embodiment of Fig. 3A, Fig. 4A, Fig. 5A, and Fig. 6A, respectively. Thus, these figures are not different species but different views. Accordingly, the Election Requirement is improper.

Thus, withdrawal of the Restriction and Election of Species Requirement is respectfully requested.

II. Conclusion

In view of the foregoing, it is respectfully submitted that this application is in condition for allowance. Favorable reconsideration and prompt allowance are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number set forth below.

Respectfully submitted,



James A. Oliff
Registration No. 27,075

Daniel L. Cerioni
Registration No. 65,242

JAO:DLC/emd

Attachment:
Amendment Transmittal

Date: December 23, 2011

OLIFF & BERRIDGE, PLC
P.O. Box 320850
Alexandria, Virginia 22320-4850
Telephone: (703) 836-6400

**DEPOSIT ACCOUNT USE
AUTHORIZATION**

Please grant any extension
necessary for entry of this filing;
Charge any fee due to our
Deposit Account No. 15-0461